IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 12170 of 1987

Between:

1.Bhadrachalam Paperboards Ltd., Secunderabad, rep., by its Vice President (Law) & Company Secretary, C.R.Shah.
2. S.Prem Sagar.

..... PETITIONERS

AND

1. A.P. State Electricity Board, rep.by its Member Secretary,
   Vidyut Soudha, Hyderabad.
2. The Superintending Engineer, Operations Circle, A.P.State Electricity Board,
   Khammam.
3. The Govt. of A.P. rep.by its Principal Secretary,
   Industries & Commerce (IA) Department, Secretariat,
   Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herewith the High Court may be pleased to issue a Writ, direction or order in the nature of Mandamus declaring the proceedings issued by the respondents 1 and 2 demanding the immediate payment of Rs.42 lakhs as the 1st instalment of electricity dues and the balance amount of Rs.1,25,931-15 ps in three more instalments subject to levy of surcharge and penal interest as illegal, arbitrary and unconstitutional, and directing respondents 1 and 2 to give effect to the directions and instructions issued by the 3rd respondent, Govt. of A.P.,in G.O.MS.No.482, Industries and commerce (IA)Department, dt.9.9.1986 and in letter No.109/1A/87-4 dt.15.7.1987 to pay the balance five instalments of Rs.10,98,582-15 ps each as per the directions of the Government.

For the Petitioner: MR.K.SRINIVASAMURTHY, ADVOCATE

For the Respondents 1 and 2: Smt. M.Vinobhadevi, Standing

Counsel for A.P.S.E.B.

For Respondent No.3: GP FOR INDUSTRIES & COMMERCE

The Court made the following:

Oral Order:

Heard both sides.

The subject-matter of this writ petition is regarding the availment of certain concessions by the first petitioner-Bhadrachalam Paper Boards Limited, for the fourth and fifth year from the date of commencement of commercial production of the first petitioner-Unit.

It is not in dispute that for the first three years, as per the Policy existing then, the concession of rebate had been extended to the first petitioner-Unit. Subsequently, according to the petitioners, there is change in the Policy of the State Electricity Board and the period of concession had been extended from three years to five years. Therefore, it is the claim of the petitioners that the said benefit should be extended to the first petitioner-Unit also for the fourth and fifth years. When the said claim was not considered, the present writ petition had been filed.

Having heard the learned Counsel appearing for the parties and having regard to the facts and circumstances of the case, at this distance of time, this Court cannot decide as to the legality or otherwise of the alleged change in the Policy of the respondent-Electricity Board and the applicability of the same to the first petitioner-Unit. It is for the respondent-Electricity Board and the Government to take a decision as to whether the benefits, as sought for by the first petitioner-Unit, could be extended to it or not.

At this stage, learned Counsel for the petitioners submitted that the first petitioner-Unit had submitted a representation to the respondents to consider its case and the same is stated to be pending consideration before the respondents.

Having regard to the facts and circumstances, suffice it to close the writ petition with a direction to the respondents to consider the representation, if any, submitted by the first petitioner-Unit and pass appropriate orders thereon, in accordance with law, within a period of four weeks from today.

In the result, the writ petition is closed with a direction to the respondents to consider the representation, if any, submitted by the first petitioner-Unit and pass appropriate orders thereon, in accordance with law, within a period of four weeks from today. Till such time, status obtaining as on today shall be maintained. No costs.

D.S.R.VARMA,J

svr

TO:

1. Member Secretary, A.P. State Electricity Board, Vidyut Soudha, Hyderabad.
2.The Superintending Engineer, Operations Circle, A.P.State Electricity Board, Khammam.
3.The Principal Secretary, Industries & Commerce (IA) Department, Government of Andhra Pradesh, Secretariat, Hyderabad.

4.Two C.Cs to the Government Pleader for Industries and Commerce, High Court Buildings, High Court of A.P., Hyderabad (OUT).

5.Two C.D. copies.